

**MARIA ALAR, LOLITA ALAR AND SOCRATES ALAR JR.,
PLAINTIFFS-APPELLANTS, VS. PETRA ASIS, SPS. PABLITO JR., AND
LYNLYN ASIS, SPS. ARMANDO JR., AND GLORIA ASIS-DALA, SPS.
SALVADOR AN...**

Ponente: LAGURA-YAP, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/d09a1ca1c59f/>

LAGURA-YAP, J.:

The present appeal seeks to nullify the March 1, 2010 Order[1] and the March 25, 2010 Order[2] rendered by the Regional Trial Court (RTC), Branch 1, of Borongan, Eastern Samar in Civil Case No. 3815. The latter Order denied defendants-appellants' Motion for Reconsideration[3] of the March 1, 2010 Order of the RTC which dismissed the case for lack of jurisdiction over the subject matter.

The Antecedent Facts

On January 21, 2003, Maria Alar, Lolita Alar and Socrates Alar Jr., (plaintiffs) filed a Complaint[4] against Petra Asis, Spouses Pablito Jr. and Lynlyn Asis, Spouses Armando Jr. and Gloria Asis-Dala, Spouses Salvador and Grace Asis, and Josie Asis, (defendants) for Property and/or Partition with Prayer for Preliminary Injunction and Damages before the Regional Trial Court (RTC), Branch 1, of Borongan, Eastern Samar, docketed as Civil Case No. 3815.

In their Complaint, plaintiffs alleged that they are the absolute owners of a parcel of land[5] situated in G. Alido St., Brgy. D-1 Poblacion, Borongan, Eastern Samar. Plaintiffs and their predecessors in interest had been in public, peaceful, continuous and adverse possession of the subject property for decades before the controversy arose.

Plaintiffs averred that on March 17, 2001, defendants, by means of stealth and strategy, occupied the entirety of the residential land by building a concrete fence made of hollow-blocks along G. Alido Street, blocking the only ingress and egress to the property. As a result, the store of Ana Marie Ty-Lira and Encarnacion Ty, lessees of the subject property, was completely shut-off from the street. Consequently, plaintiffs were deprived of the rentals from the leased premises as customers no longer had access to the store.[6]

Despite repeated demands, defendants refused to vacate the premises. Instead, defendants manifested their intention of staying in the subject property by increasing the height of the fence. In the hope of reaching a settlement, the matter was referred to the barangay authorities, but to no avail.[7] Hence, plaintiffs had no recourse but to bring the matter before the court.

As an alternative cause of action, plaintiffs averred that they are co-owners of the property with the defendants in at least four (4) equal parts, being the heirs and successors-in-interest of Faustino Alar and Clotilde Alar-Asis, respectively. For that reason, plaintiffs asked for a partition of the property. Further, plaintiffs prayed for a Writ of Preliminary Mandatory Injunction (WPMI) or Temporary Restraining Order (TRO), as the defendants were in the process of encumbering the property subject of litigation.[8]

The only documentary exhibit attached to the Complaint is a 1940 Declaration of Real Property[9] (Tax Declaration No. 47638), which shows that the assessed value of the property is only two hundred twenty pesos (PhP 220.00).

In their Answer with Counterclaim[10], defendants countered that plaintiffs have never been in possession of the lot in question. On the contrary, it is the defendants and their predecessors-in-interest who have been in open possession and peaceful occupation of the property since time immemorial. Defendants pointed out that they even have a residential house on the subject property, constructed sometime in the 1960s, where they were born and raised.[11]

As the rightful owners, defendants posit that they had all the right in the world to construct a fence on their property, regardless of its height. Further, Ana Marie Ty-Lira and Encarnacion Ty are not really lessees, as they are mere possessors by tolerance. Defendants stated that Ana Marie was abandoned by her husband and was left with no means of living, and out of pity, defendants allowed her to construct a store in their property. Defendants likewise argued that plaintiffs' plea for injunctive relief has no basis in fact and law, as the latter are not in possession of the property in question.[12]

As special and affirmative defenses, defendants averred that plaintiffs are already barred by laches, estoppel and prescription as defendants' adverse, public and open possession of the subject property would now be more than forty (40) years. On plaintiffs' prayer for partition, defendants maintained that there is really nothing to divide as they are the sole and rightful owners of the property, and not plaintiffs.[13]

After filing of the last pleading, plaintiffs moved ex-parte to set the case for Pre-Trial, and thereafter the parties filed their respective Pre-Trial Briefs. In their Brief,[14] defendants raised as an issue the improper joinder of causes of action, as the Complaint incorporated two incompatible causes of action, one for recovery of ownership and possession of the property, and the other for partition.

In its November 22, 2004 Order,[15] the RTC ruled that there is misjoinder of causes of action and it directed plaintiffs to sever the causes of action. Plaintiffs then filed a Notice of Severance[16] stating that they are severing the cause of action for property while maintaining the action for partition.

After a series of postponements, Preliminary Conference[17] was conducted on November 5, 2008, during which plaintiffs marked Tax Declaration No. 47638 as their Exhibit A, with the reservation of presenting other documentary exhibits that may be produced during trial.

Another series of postponements followed as the parties manifested that they are ironing out an amicable settlement. No such settlement ever happened and the case proceeded. Out of nowhere, and perhaps after reading Tax Declaration No. 47638 for the first time, defendants filed a Motion to Dismiss,[18] alleging that the RTC has no jurisdiction over the subject matter of the case. Defendants pointed out that the lone documentary exhibit of plaintiffs (Tax Declaration No. 47638) shows that the assessed value of the subject property does not exceed twenty thousand pesos (PhP 20,000.00), and as such, the Municipal Trial Court (MTC) has jurisdiction, and not the RTC.

Plaintiffs filed an Opposition to the Motion to Dismiss,[19] contending that the assessed value of the the subject property should be determined on the basis of the tax declaration as updated. Since the sum of all the updated tax declarations exceeds twenty thousand pesos (PhP 20,000.00), then the RTC has jurisdiction.

On March 1, 2010, the RTC issued an Order[20] granting the Motion to Dismiss, the dispositive portion whereof reads:

“WHEREFORE, premises considered, the herein motion to dismiss filed by the defendants is hereby granted.

Accordingly, this case is hereby ordered DISMISSED for lack of jurisdiction over the subject matter of this case.

SO ORDERED.”

Plaintiffs filed a Motion for Reconsideration of the March 1, 2010 Order but it was denied. Plaintiffs then filed a Notice of Appeal[21] assailing the Order[22] granting the Motion to Dismiss and the Order[23] denying their Motion for Reconsideration. Plaintiffs now come before Us raising the sole assignment of error:

THE TRIAL COURT ERRED IN RULING THAT IT HAS NO JURISDICTION OVER THE SUBJECT MATTER OF THE CASE BECAUSE THE ASSESSED VALUE OF THE PROPERTY INVOLVED IS NOT MORE THAN PHP 20,000.00.

The Ruling of the Court

The appeal is bereft of merit.

The settled rule is that jurisdiction of the court over the subject matter is determined by the allegations of the complaint. In the case of *Actuel v. Valdez*,[24] the Supreme Court ruled that:

“It is axiomatic that the jurisdiction of a tribunal, including a quasi-judicial officer or government agency, over the nature and subject matter of a petition or complaint is determined by the material allegations therein and the character of the relief prayed for, irrespective of whether the petitioner or complainant is entitled to any or all such reliefs. Jurisdiction over the nature and subject matter of an action is conferred by the Constitution and the law, and not by the consent or waiver of the parties where the court otherwise would have no jurisdiction over the nature or subject matter of the action.”

In *La Naval Drug Corporation v. Court of Appeals*,[25] the Supreme Court held that:

“Lack of jurisdiction over the subject matter of the suit is yet another matter. Whenever it appears that the court has no jurisdiction over the subject matter, the action shall be dismissed. This defense may be interposed at any time, during appeal or even after final judgment. Such is understandable, as this kind of jurisdiction is conferred by law and not within the courts, let alone the parties, to themselves determine or conveniently set aside.”

In the present case, it must be emphasized that the Complaint does not mention the assessed value of the property subject of the case. The assessed value is stated in Tax Declaration No. 47638, which as can be observed, is the only documentary exhibit attached to the said Complaint. What the RTC did was that it considered the Tax Declaration No. 47638 as basis for the assessed value of the subject property because the Complaint is completely silent on that point. This is not sanctioned by the Rules. What the RTC should have done was to dismiss the case outright.

Furthermore, there is another reason why this appeal should be denied. Although not raised as a defense by the appellees, it has not escaped Our attention that the present appeal involves a pure question of law.

A cursory reading of the Appellants' Brief[26] reveals that plaintiffs-appellants lone assignment of error is a question of law. The first page of the said Brief categorically states that “the trial court erred in ruling that it has no jurisdiction over the subject matter of the case because the assessed value of the property does not exceed twenty thousand pesos (PhP 20,000.00).” Undoubtedly, the issue raised is a pure question of law. Also, since the case was decided by the RTC in the exercise of its original jurisdiction, the proper mode of appeal is a petition for review by certiorari with the Supreme Court under Rule 45 of the Rules of Court.

In the case of *Sevilleno et al. v. Carilo et al.*,[27] the Supreme Court made it clear that an appeal involving the

trial court's jurisdiction over the subject matter of the case only involves a question of law. The relevant portion of the decision is quoted as follows:

“It is not disputed that the issue brought by petitioners to the Court of Appeals involves the jurisdiction of the RTC over the subject matter of the case. We have a long standing rule that a court’s jurisdiction over the subject matter of an action is conferred only by the Constitution or by statute.[28] Otherwise put, jurisdiction of a court over the subject matter of the action is a matter of law.[29] Consequently, issues which deal with the jurisdiction of a court over the subject matter of a case are pure questions of law. As petitioners’ appeal solely involves a question of law, they should have directly taken their appeal to this Court by filing a petition for review on certiorari under Rule 45, not an ordinary appeal with the Court of Appeals under Rule 41. Clearly, the appellate court did not err in holding that petitioners pursued the wrong mode of appeal.”

Section 2, Rule 50[30] of the Rules of Court provides that an appeal from the RTC to the Court of Appeals raising only questions of law shall be dismissed, and that an appeal erroneously taken to the Court of Appeals shall be dismissed outright. That is exactly what this Court will do.

WHEREFORE, premises considered, the instant appeal is DENIED and the assailed Orders dated March 1, 2010 and March 25, 2010 are AFFIRMED.

SO ORDERED.

Delos Santos, and Lopez, JJ., concur.

[1] Records, pp. 185-188.

[2] Rendered by Presiding Judge Elvie P. Lim. Records, pp. 192-194.

[3] Dated March 17, 2010. Records, pp. 190-191.

[4] Records, pp. 2-6.

[5] More particularly described as follows: “A parcel of residential land situated at Brgy. D-1 Poblacion, Borongan, Eastern Samar, bounded on the North by Cecillo Abella, on the East by Maria Ampong, on the South by Magdalena Alar, and on the West by San Bartolome now G. Alido St., with an area of 488.24 sq. meters per T.D. No. 47638 in the name of Faustino Alar.”

[6] Records, p. 3.

[7] Id. at pp. 3-4.

[8] Records, pp. 4-5.

[9] Annex A. Records, p. 8.

[10] Records, pp. 12-18.

[11] Supra, p. 13.

[12] Records, pp. 13-15.

[13] Id. at 16.

[14] Dated July 2, 20013. Records, pp. 45-46.

[15] Records, pp. 81-82.

[16] Dated November 30, 2004. Records, 84.

[17] Report dated November 5, 2008. Records, p. 128.

[18] Dated September 29, 2009. Records pp. 160-161.

[19] Dated October 12, 2009. Records, pp. 170-171.

[20] See footnote 3.

[21] Records, p. 199.

[22] See footnote 1.

[23] See footnote 2.

[24] G.R. No. 139561, 10 June 2003.

[25] G.R. No. 103200, August 31, 1994.

[26] Rollo, pp. 32-35.

[27] G.R. No. 146454, September 14, 2007.

[28] De Jesus v. Garcia, G.R. No. 26816, February 28, 1967.

[29] Calimlim, et al. v. Ramirez, et al., G.R. No. 34362, November 12, 1982.

[30] Section 2. Dismissal of improper appeal to the Court of Appeals. — An appeal under Rule 41 taken from the Regional Trial Court to the Court of Appeals raising only questions of law shall be dismissed, issues purely of law not being reviewable by said court. Similarly, an appeal by notice of appeal instead of by petition for review from the appellate judgment of a Regional Trial Court shall be dismissed. (n)

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.